

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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VYACHESLAV FETISOV, et al.,

Plaintiffs,

-against-

AY BUILDERS, INC., et al.,

Defendants.
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**MEMORANDUM
AND ORDER**

10-CV-3683 (FB)

ROANNE L. MANN, UNITED STATES MAGISTRATE JUDGE:

The Court is in receipt of plaintiffs' letter-motion to compel the production of documents, filed on August 24, 2011 ("Pl. Motion"), ECF Docket Entry ("DE") #34; defendants' opposition thereto, dated August 29, 2011 ("Def. Opp."), DE #36; and plaintiffs' reply filed today ("Pl. Reply"), DE #37. For the following reasons, plaintiffs' motion is denied.

First, it is uncontroverted that plaintiff's counsel "failed to confer with [defense counsel] about [their] discovery dispute[s] as required by the Federal Rules of Civil Procedure, the Local Rules for the Eastern District, and this Court's Individual Rules." Def. Opp. at 1; see generally Pl. Reply; see also Fed. R. Civ. P. 37(a)(1); SDNY/EDNY Local Civ. R. 37.3(a); Rule III, Individual Rules of Magistrate Judge Roanne L. Mann. On this basis alone, plaintiffs' request for relief is unavailing.

Second, plaintiffs' document demands are apparently untimely, as fact discovery ended on July 27, 2011. See Endorsed Order (May 12, 2011), DE #27 (noting that "[n]o further requests will be granted").

Third, plaintiffs have not satisfied their heavy burden of establishing their entitlement to

income tax records for defendant AY Builders, Inc. and for non-party R Design Management Inc. See generally Def. Opp. at 2-3. Nor have plaintiffs made the requisite showing regarding the “payroll tax returns” of those entities. See Pl. Motion at 5. As defendants correctly observe, these records implicate the privacy interests of individuals who are not parties to this action, see Def. Opp. at 3-4, and plaintiffs have made no showing to support their assumption that payroll tax records would reflect the specific project(s) on which an employee was working during the period referenced in that record.

For all of these reasons, plaintiffs’ motion for a compulsion order is denied.

SO ORDERED.

**Dated: Brooklyn, New York
September 8, 2011**

**ROANNE L. MANN
UNITED STATES MAGISTRATE JUDGE**